

U.S. Serial No. 09/920,810
Applicant: C. Feger, et al.
Filed: August 3, 2001

15. (Original) A method for treating endocarditis, said method comprising administering to a patient in need of such treatment synergistically effective amounts of cefpirome and a dalfopristine/quinupristine combination.

16-19. (Canceled)

REMARKS

Claims 16-19 have been cancelled solely to expedite prosecution, and without prejudice to the subject matter therein. Applicants reserve the right to pursue the non-elected species of claims 16-19 in one or more divisional applications.

In the May 27, 2005 final Office Action, the Examiner indicated that the subject application was in condition for allowance except for the presence of claims 4-19 which the Examiner alleged contain no elected subject matter. The Examiner requested the applicants cancel claims 4-19.

Applicants point out that claims 4-15 are method of treatment claims comprising “administering synergistically effective amounts of: (a) cefpirome and (b) a dalfopristine/quinupristine combination”. Claims 4-15 were withdrawn as non-elected species in view of applicants’ election to the May 20, 2003 restriction requirement. However, the methods of claims 4-15 comprise the very same composition found to be patentable subject matter in claims 1-3 of the subject application. As such, these method of treatment claims comprising a novel and non-obvious composition should also be allowable. Applicants therefore request that claims 4-15 be rejoined to the subject application and found to be allowable.

In light of the above amendments and remarks, the Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at (212) 326-3939 if a telephone call could help resolve any remaining items.

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It is estimated that no fees are required for filing this Amendment. Notwithstanding, should the Patent Office determine otherwise, please charge the necessary fee to Jones Day Deposit Account No. 50-3013.

Respectfully submitted,

by: Jacqueline Benn
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Date: June 27, 2005

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